S.B.Civil Second Appeal No.173/2006.

Giriraj Giri.
vs.
Banna Ram.

Date : 28.3.2007

HON'BLE MR. PRAKASH TATIA, J.

Mr. KC Samdariya, for the appellant.

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Heard learned counsel for the appellant.

The appellant/plaintiff filed suit for eviction of the respondent/tenant on the ground of material alteration made by the defendant/respondent in the rented premises.

The trial court decreed the suit of the plaintiff vide judgment and decree dated 17.1.2005. The first appellate court after recording finding that the plaintiff did not plead that Inth wall was constructed by digging any foundation and thereafter, recorded finding that the plaintiff failed to prove that permanent structure was raised. In fact, the structure raised was temporary in nature and could have been removed without any efforts. The first appellate court considered the evidence of the plaintiff himself who in

his statement has shown his ignorance when he was asked that the entire structure may be demolished within half an hour. In view of the above, the first appellate court has recorded its finding on the basis of evidence available on record.

So far as issue regarding material alteration is concerned, that depends upon facts of each case basically, therefore, the judgment relied upon by learned counsel for the appellant in the case of Bhagirath Mal & Anr. vs. Smt. Yuvrani Sahiba through LRs. Cannot be of any help to him in this case.

In view of the above, I do not find any substantial question of law involved in this appeal. Consequently, this second appeal, having no merit, is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya